
Part 39
Airworthiness Directives

Published
May 1974

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PART 39

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Preambles	-----	F-1
Subpart A—General		
39.1	Applicability -----	1
39.3	General -----	1
Subpart B—Airworthiness Directives		
39.11	Applicability -----	1
39.13	Airworthiness directives -----	1

of the Civil Air Regulations, upon which Part 507 is based.

During the remainder of the recodification project, Chapter I of Title 14 may contain more than one Part bearing the same number. To differentiate between the two, the recodified Parts will be labeled "[New]". The label will of course be dropped at the completion of the project as all of the regulations will be new.

This amendment is based on a part of the notice of proposed rule making published in the Federal Register on May 16, 1964 (29 F.R. 6446) and given further distribution as Notice No. 64-26. That notice proposed not only the recodification of Part 507 but in addition, proposed to substantively revise its provisions and those of § 1.24, of the Civil Air Regulations upon which that Part is based. It must be emphasized that this amendment is simply the nonsubstantive recodification of Part 507 and § 1.24 and does not incorporate the proposed substantive amendments of Notice 64-26. The comments received on those substantive amendments are now being reviewed. Rather than delay the recodification until this review is completed, the recodified Part 39 [New] is being issued now. This action is not a withdrawal of the proposed substantive revision; that portion of the notice of proposed rule making relating to that revision is still outstanding and will be acted upon at a later date.

A number of changes have been made in the recodification proposal, both as a result of comments received and as a result of further review by the Agency. Two comments have led to the rewording of proposed § 39.5 to make clearer that it does not supersede the particular compliance time or effective date provisions of any airworthiness directive. The intent of this section is simply to ensure compliance with the requirements as stated in the directive itself, not to impose new ones.

Other minor changes of a technical nature have been made. They are not substantive and do not impose any burden on regulated persons. All current airworthiness directives are transferred to this Part without change.

The definitions, abbreviations, and rules of construction contained in Part 1 [New] of the Federal Aviation Regulations apply to Part 39 [New].

Interested persons have been afforded an opportunity to participate in the recodification of this regulation, and due consideration has been given to all relevant matter presented. The Agency appreciates the cooperative spirit in which the public's comments were submitted.

In consideration of the foregoing, effective November 20, 1964, Title 14 of the Code of Federal Regulations is amended as follows:

(1) Chapter III is amended by deleting Part 507.

(2) Chapter I is amended by deleting the first sentence of § 1.24(a) and by adding a Part 39 [New] reading as hereinafter set forth.

This amendment is made under the authority of §§ 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1421 and 1423).

and, secondly, deletion of procedural restrictions on the Administrator's authority to issue ADs. The first step was accomplished by amendment published in 29 F.R. 14403, October 20, 1964. This amendment accomplishes the second step.

Part 39 imposes two restrictions on the issue of ADs for unsafe conditions. The unsafe condition giving rise to an AD must (1) have been found as a result of service experience and (2) be with respect to a design feature, part, or characteristic. Both restrictions were originally imposed, prior to the Federal Aviation Act, by the Civil Aeronautics Board (CAB) when it delegated the authority to issue ADs to the Civil Aeronautics Administration (CAA). The Federal Aviation Act of 1958 combined the safety rule making authority of the CAB and CAA and vested it in the FAA and these carried-over restrictions are contrary to the intent of that Act. This amendment removes the two restrictions from the regulations and will allow ADs to be issued for unsafe conditions however and wherever found.

Most of the comments received in response to the Notice of Proposed Rule Making were directed to the remark in the preamble that "an unsafe condition that results from maintenance, as well as one due to a design defect, will be subject to the issuance of an airworthiness directive". The Notice stressed, perhaps unduly, this one cause of unsafe conditions whereas, in actuality, there are many causes. It is clear from the foregoing discussion that the responsibilities placed on the FAA by the Federal Aviation Act justify broadening the regulation to make any unsafe condition, whether resulting from maintenance, design defect, or otherwise, the proper subject of an AD. At the same time the Agency recognizes that use of ADs to correct improper or inadequate maintenance on the part of particular persons or organizations would impose an unreasonable burden on the vast majority of persons who comply with the regulations and properly maintain their aircraft. The Agency, accordingly, will not issue ADs as a substitute for enforcing maintenance rules. In addition, the present provision that the unsafe conditions must be likely to exist or occur in other aircraft effectively precludes the issue of ADs to correct problems arising from poor maintenance practices on the part of an individual operator.

Two other comments, suggesting that the revised regulations go beyond the minimum standards and reasonable rules and regulations authorized by the Federal Aviation Act, opposed deletion of the restrictions on the ground that the way would thus be opened for abuses by individual FAA personnel. This amendment, as such, imposes no additional requirements on anyone. Only when it is implemented through the issue of future ADs will it have any regulatory effect. The issue of ADs is governed by the Administrative Procedure Act and its provisions relating to public notice and procedure. In addition, we agree with the commentators that the Federal Aviation Act of 1958 allows only the issue of minimum standards and reasonable rules and regulations. ADs are no different than the other types of rules issued by this Agency and we cannot and will not issue an AD unless we are convinced that its need and scope are fully justified.

Since service experience would now be only one of several bases that may generate an AD requiring a design change, the § 21.99 catchline is being amended to read "Required design changes".

Interested persons have been afforded the opportunity to participate in making this amendment. All relevant material submitted has been fully considered.

In consideration of the foregoing, Parts 21 and 39 of the Federal Aviation Regulations are amended as follows effective August 13, 1965.

This amendment is made under the authority of sections 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1421 and 1423).

that apply to aircraft, aircraft engines, propellers, or appliances (hereinafter referred to in this Part as "products") when—

(a) An unsafe condition exists in a product; and

(b) That condition is likely to exist or develop in other products of the same type design.

§ 39.3 General.

No person may operate a product to which an airworthiness directive applies except in

§ 39.11 Applicability.

This subpart identifies those products in which the Administrator has found an unsafe condition as described in § 39.1 and, as appropriate, prescribes inspections and the conditions and limitations, if any, under which those products may continue to be operated.

§ 39.13 Airworthiness directives.

[All airworthiness directives contained in § 507.10 of the Regulations of the Administrator are hereby transferred to this section of the Federal Aviation Regulations.]

